

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

v.

CRIMINAL NO: 4:15cr0073

STEVEN HAYNES, et al.

MOTION TO CONDUCT TRIAL IN OXFORD DIVISION

The United States of America, by Felicia C. Adams, United States Attorney for the Northern District of Mississippi, through Clyde McGee IV, Assistant United States Attorney, file this Motion to Conduct the Trial in the Oxford Division as follows:

1. The second superseding indictment in above-styled case was filed on February 24, 2016, in the United States District Court for the Northern District of Mississippi. The trial of this matter is set for April 18, 2016. The location of the trial is currently set for Greenville, Mississippi (Greenville Division). It appears two incarcerated defendants and one non-incarcerated defendant will be proceeding to trial.

2. The Government anticipates calling at least five cooperating witnesses who are currently incarcerated in the Bureau of Prisons. Due to the limited amount of space at the Bolivar County Detention Center, one cell block for federal inmates, and the limited amount of space at the courthouse, one cell in the United States Marshal's Service office in Greenville, it would be difficult, if not impossible, to separate everyone and ensure the safety of the witnesses, officers, court personnel and the public. *See United States v. Griffin*, 2:10-CR-00160-P-S (Docket Entry 355) (finding that "the jail facilities and security features available in Oxford are far more accommodating for such a large case than those in Greenville.").

3. The United States Marshal's Greenville Office has only two Deputy United States Marshals. Due to the nature of the charges which involve allegations of heroin trafficking and acts of violence and the number of in custody witnesses, it would be necessary for Deputies from the Oxford office to travel to Greenville daily to provide security for the Court and public.

4. The issue of trial location is governed by Rule 18 of the Federal Rules of Criminal Procedure, which provides in pertinent part: "Except as otherwise permitted by statute or by these rules, the prosecution shall be had in a district in which the offense was committed. The court shall fix the place of the trial within the district with due regard to the convenience of the defendant and the witnesses and the prompt administration of justice."

5. The Sixth Amendment to the Constitution requires that a criminal trial be held in the district in which the alleged crime or crimes occurred. *United States v. Duncan*, 919 F.2d 981, 985 (5th Cir. 1990), *cert. denied*, 500 U.S. 926 (1991). However, there is no constitutional right to be tried in a particular division within a district. *United States v. Anderson*, 328 U.S. 699 (1946); *Duncan*, 919 F.2d at 985; *United States v. McKinney*, 53 F.3d 664, 673 (5th Cir. 1995). The decision of the trial judge to fix the place of trial is reviewed under an abuse of discretion standard. *United States v. Dickie*, 775 F.2d 607, 609 (5th Cir. 1985), *abrogated in part on other grounds*, 37 F.3d 160 (5th Cir. 1994); *United States v. Gonzalez*, 163 F.3d 255, 259 (5th Cir. 1998); *United States v. Gourley*, 168 F.3d 165, 171 (5th Cir. 1999). Thus, the trial site within the district where the crimes are alleged to have been committed is within the sound discretion of the trial court subject to considerations (see *McKinney* and *Gourley*) including consideration for the safety of the government's potential witnesses.

6. Should moving the trial to Oxford cause a delay in the proceedings, a continuance would be in the interest of security of witnesses, officers, court personnel, and the public. Thus, the ends of justice would be served and outweigh the interest of the defendant and the public in a speedy trial.

7. WHEREFORE PREMISES CONSIDERED, the United States respectfully requests that the trial in this case be held in the Oxford Division and for such other and further relief that the Court deems just and proper.

Respectfully submitted this the 11th day of April, 2016.

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CERTIFICATE OF SERVICE

I, CLYDE McGEE IV, Assistant United States Attorney for the Northern District of Mississippi, hereby certify that I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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This the 11th day of April, 2016.

/s/ Clyde McGee IV
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